

**MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES**

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

<b>Plaintiffs' Executive Committee for Personal Injury and Death Claims</b>	<b>Plaintiffs' Executive Committee for Commercial Claims</b>
Ronald L. Motley, (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

August 26, 2021

**UNDER SEAL WITHOUT PREJUDICE TO SEEK LEAVE TO FILE PUBLICLY****VIA ECF**

The Honorable Sarah Netburn  
 United States Magistrate Judge  
 Thurgood Marshall Courthouse  
 40 Foley Square, Room 430  
 New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn,

Plaintiffs oppose certain of the redactions the Kingdom of Saudi Arabia has proposed to its filings regarding reporting that included purported excerpts from the transcript of the deposition testimony by former Kingdom employee Musaed al-Jarrah. *See* ECF No. 6891 and 6891-2. Specifically, Plaintiffs object to the Kingdom's proposed redactions at pp. 8 – 10 and 42 – 66 of ECF No. 6891-2 and to all of its proposed redactions to ECF No. 6891. None of the information contained in those filings is subject to any protective order, nor does it fall within any of the limited exceptions allowing for judicial documents to remain under seal and hidden from public.<sup>1</sup>

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<sup>1</sup> While Plaintiffs expressly requested that the Kingdom advise the Court that they intended to oppose its proposed redactions, the Kingdom did not do so. *See* Exhibit A hereto.

August 26, 2021

Page 2

[REDACTED]  
[REDACTED] The colloquies that the Kingdom seeks to redact in ECF No. 6891-2 did not involve any information derived from materials produced by the Kingdom pursuant to its protective order. The proposed redactions thus contain no information subject to either the FBI protective order (ECF No. 4255) or the MDL protective order (ECF No. 1900).<sup>3</sup>

Likewise, there is no basis under the Second Circuit's narrow exceptions to allow limited sealing of judicial filings that can justify the Kingdom's proposed redactions.<sup>4</sup>

[REDACTED]  
[REDACTED]

The Kingdom's proposed redactions to those portions of the letter-motion and exhibit violate the presumption of public access to the judicial documents and this Court should not keep those portions of the motion practice under seal.

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<sup>2</sup> [REDACTED]  
[REDACTED]

<sup>3</sup> The Kingdom has moved to seal on its own behalf, but it is not clear that it even has standing to assert any privacy interest on the part of Jarrah, who it has represented no longer is its employee.

<sup>4</sup> The Kingdom acknowledges that the materials constitute judicial filings. ECF No. 7066 at 3. Because the filed documents arise from the deposition of a witness whose testimony weighs on the issue of subject matter jurisdiction under the Justice Against Sponsors of Terrorism Act, they go directly to the performance of a key judicial function and thus "should not remain under seal absent the most compelling reasons." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 123 (2d Cir. 2006), internal quotation marks and citation omitted (emphasis in original); *see also United States v. Amodeo*, 71 F.3d 1044, 1049 (2d Cir. 1995) (the weight given to the presumption of access is greatest when court is performing its Article III functions).

August 26, 2021

Page 3

Respectfully submitted,

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